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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,679	03/13/2001	Paul E. Jacobs	000283	3660
23696	7590	01/27/2006	EXAMINER	
QUALCOMM, INC			SON, LINH L D	
5775 MOREHOUSE DR.			ART UNIT	
SAN DIEGO, CA 92121			PAPER NUMBER	
			2135	

DATE MAILED: 01/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/805,679	JACOBS, PAUL E.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Linh LD Son	2135	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 April 2000.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This Office Action is responding to the 11/07/2005 received on.
2. Claims 14-16 are newly added claims.
3. Claims 1-16 are pending.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by August (Cited in PTO 892 dated 05/05/05).

6. As per claims 1 and 10:

August discloses "A portable communication device comprising: a microphone structured for receiving sound waves" in (Col 6 lines 15-25), "the sound waves being representative of (i) an audio signal and (ii) hidden data embedded in the audio signal" in (Col 6 lines 54-67), "the microphone converting the received sound waves into an

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electrical output signal; a processor electrically coupled to the microphone and configured to receive the electrical output signal in order to extract the hidden data and provide information represented by the hidden data” in (Col 6 lines 15-17, lines 54-67); “a user interface electrically coupled to the processor and configured to (i) receive a first user input (ii) activate the processor to selectively initiate extraction of the hidden data in accordance with the first user input” in (Col 6 lines 54-67, Col 7 lines 25-34, lines 55-67, and Col 8 lines 44-60), “(iii) receive a second user input indicative of user preferred portions of the information represented by the hidden data, and (iv) activate the processor to provide the user preferred portions of the information in response to the second user input, wherein the processor provides the information represented by the hidden data in response to the first user input and provides the user preferred portions of the information in response to the second user input” in (Col 8 line 60 to Col 9 lines 25); and “a user presentation mechanism configured to present the information provided by the processor” in (Col 6 lines 40-67).

7. As per claim 2:

August discloses “The portable communication device according to claim 1, wherein the user interface is further configured to (i) receive a third user to establish a communication link and (ii) activate the processor to provide output data to establish the communication link, wherein the output data comprises link information included in the hidden data” in (Col 6 lines 12-41).

8. As per claim 3:

August discloses "The portable communication device according to claim 1, further comprising: an output mechanism electrically coupled to the processor and configured to receive an output from the processor and to transmit a signal corresponding to the received output" in (Col 9 lines 60-67).

9. As per claim 4:

August discloses "The portable communication device according to claim 3, wherein the transmitted signal activates computer network functions" in (Col 9 lines 60-67).

10. As per claim 5:

August discloses "The portable communication device according to claim 3, further comprising: an embedding device for (i) receiving the output from the processor and (ii) embedding the output from the processor with identification information for the portable communication device, wherein the signal corresponding to the received output includes the embedded identification information" in (Col 6 lines 29-35).

11. As per claims 6 and 9:

August discloses "A portable communication device comprising: a receiver configured to receive a broadcast signal, the broadcast signal being representative of (i) an audio signal" in (Col 3 lines 1-33, Col 7 lines 35-45) and "(ii) hidden data embedded in the

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audio signal, the receiver converting the received broadcast signal into an electrical output signal; a processor electrically coupled to the receiver and configured to receive the electrical output signal in order to extract the hidden data and provide information representative of the hidden data of" in (Col 3 lines 39-60, and Col 6 lines 12-40); "a user interface electrically coupled to the processor and configured for (i) receiving a user input and (ii) activating the processor to selectively initiate extraction of the hidden data in accordance with the user input (Col 7 lines 34-43), the processor producing as an output information represented by the hidden data; and a user presentation mechanism configured for presenting the information represented by the hidden data" in (Col 7 line 60 to Col 8 line 44).

12. As per claim 7:

August discloses "A base station configured to (i) receive and process a signal transmitted by a portable communication device for a call (ii) extract hidden data from the processed signal, the extracted hidden data including identifier information for the portable communication device (Col 7 lines 37-55), and linking information indicative of a destination for the call, and (iii) establish a communication link to a the destination indicated by the linking information" in (Col 6 lines 12-410).

13. As per claim 8:

August discloses "A communication system for processing a broadcast audio signal including hidden data, the communication system comprising: a portable communication device including: a microphone structured for receiving sound waves" in (Col 6 lines 15-

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25), "the sound waves being representative of (i) an audio signal and (ii) hidden data embedded in the audio signal" in (Col 6 lines 3-5, lines 54-60), "the microphone converting the received sound waves into an electrical output signal; a processor electrically coupled to the microphone and configured for receiving the electrical output signal in order to extract the hidden data and provide information representative of the hidden data" in (Col 3 lines 10-20, Col 6 lines 3-5, lines 54-60); "a user interface electrically coupled to the processor and configured for (i) receiving a first user input; and, (ii) activating the processor to selectively initiate extraction of the hidden data in accordance with the first user input" in (Col 6 lines 54-67, Col 7 lines 25-34, lines 55-67, and Col 8 lines 44-60), "(iii) receiving s second user input indicative of user preferred portions of the information representative of the hidden data and (iv) activating the processor to provide the user preferred portions of the information in accordance with the second user input" in (Col 8 line 60 to Col 9 lines 25 (second input is the function relating to memory manipulation, which allows the user to recall the preferred content));

"a user presentation mechanism configured for presenting information provided by the processor, and an output mechanism electrically coupled to the processor and configured for receiving the output data from the processor and transmitting a signal corresponding to the received output data" in (Col 8 lines 44-60, Col 6 lines 12-27, and lines 40-67);

and "a base station configured to (i) receive and process the signal transmitted by the portable communication device (Col 6 lines 12-27), (ii) extract the output data from the

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processed signal, the output data including identifier information and linking information (Col 6 lines 29-35), and (iii) establish a communication link to a destination represented by the linking information” in (Col 6 lines 29-53, and Col 7 lines 55-67).

***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 11-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over August in view of Dillon, US Patent No 6351467B1.

16. As per claims 11-13, and 15:

August discloses “A method of collecting broadcast revenue for at least one entity based upon a broadcast of data signals, the data signals being representative of audio content and including hidden information embedded therein, the method comprising: broadcasting the data signals having the hidden information, the hidden information including at least an identity of each of the at least one entity (Col 6 lines 29-45)” in (Col 3 lines 1-33, Col 7 lines 35-45);

“receiving the broadcast data signals in a portable communication device; separating the hidden information from the audio content in the received broadcast data signals and; presenting the hidden information to facilitate a user selection, the user selection



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being associated with the hidden information; transmitting the user selection voicelessly toward a revenue determination center” in (Col 6 lines 15-18, lines 36-42, Col 7 lines 19-33, lines 55-67, Col 11 lines 20-31); August further teaches of receiving identification of the content and collecting fee for usage of the content based on the user selection (Col 6 lines 29-45).

However, August does not teach of “including an identity of each of the at least one entity in the hidden information, and determining a revenue share amount for each of the at least one entity based upon the broadcast data signals and the user selection, wherein the revenue share amount for each entity is related to a service rendered by the entity to provide the hidden information: and allocating the determined revenue share amount to each of the at least one entity”.

Nevertheless, Dillon discloses the “System and Method for Multicasting Multimedia Content”, which includes a method of collecting advertising fee base on the number of hit (i.e. a web user sees an advertisement on a website and click on the advertisement link. The selecting of the advertisement determines the hit of the Advertisement). The web server keeps tracks of the identity of the user who clicks on the advertisement (Col 24 line 55 to Col 25 line12). The URL of the advertisement link is used to identity the entity should be collected for advertisement. In contrast with the claimed invention, the revenue amount can also determent on the user input selecting the content, since the selection causes the content ID sent to the provider whom will collecting the fee for usage of the content and also maintaining the number of request of the content.

Therefore, it would have been obvious at the time of the invention was made for one having ordinary skill in the art to modify August's hidden advertisement service over the radio and the content usage tracking to incorporate with Dillon's teaching of advertisement revenue sharing to provide a less cost advertisement service over the radio broadcasting service.

17. As per claim 12:

August and Dillon disclose "The method of sharing collecting broadcast revenue according to claim 11, wherein the separating the hidden information includes converting the received broadcast data signals into electrical signals and extracting the bidden information from the electrical signals" in (August, Col 5 lines 24-30, Col 6 lines 15-18, and lines 42-53).

18. As per claim 14:

August and Dillon disclose "The method of collecting broadcast revenue according to claim 11, wherein the user selection is further associated with an identity of an entity facilitating transmission of die user selection, and wherein a revenue share amount is further determined for the entity facilitating the transmission of the user selection" in (Dillon, Col 24 line 55 to Col 25 line12),

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19. As per claim 16:

August discloses "The portable communication device according to claim 5, wherein the identification information for the portable communication device is a serial number of the portable communication device" in (Col 12 lines 37-55, Cellular phone number).

### ***Conclusion***

20. Applicant has amended claims 1-3, 7-8, and 10-13, which necessitated new grounds of rejection. See Rejections above.

### ***Response to Arguments***

21. Applicant's arguments filed 11/07/2005 have been fully considered but they are not persuasive.

22. As per remark on page 10 2<sup>nd</sup> paragraph, Applicant argues that August does not disclose a receiver structured to receive a radio frequency signal containing hidden data. As shown in drawing 1-4, it is clearly that the broadcast signal is the radio frequency signal. Further, in Col 3 lines 5-20, August discloses clearly that the signal can also be a radio signal.

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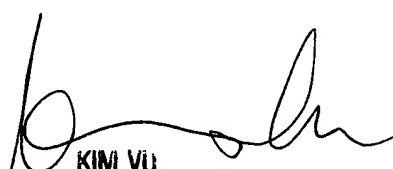
23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Linh LD Son whose telephone number is 571-272-3856.

The examiner can normally be reached on 9-6 (M-F).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on 571-272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Linh LD Son  
Examiner  
Art Unit 2135

  
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